

VII. Section 14-2-8. Procedure for Requesting Records

The Law

A. Any person wishing to inspect public records may submit an oral or written request to the custodian. However, the procedures set forth in this section shall be in response to a written request. The failure to respond to an oral request shall not subject the custodian to any penalty.

B. Nothing in the Inspection of Public Records Act shall be construed to require a public body to create a public record.

C. A written request shall provide the name, address and telephone number of the person seeking access to the records and shall identify the records sought with reasonable particularity. No person requesting records shall be required to state the reason for inspecting the records.

D. A custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request. The three-day period shall not begin until the written request is delivered to the office of the custodian.

E. In the event that a written request is not made to the custodian having possession of or responsibility for the public records requested, the person receiving the request shall promptly forward the request to the custodian of the requested public records, if known, and notify the requester. The notification to the requester shall state the reason for the absence of the records from that person's custody or control, the records' location and the name and address of the custodian.

F. For the purposes of this section, "written request" includes an electronic communication, including email or facsimile; provided that the request complies with the requirements of Subsection C of this section.

A. ORAL OR WRITTEN REQUEST

Commentary

To obtain full advantage of the inspection right provided by the Act, a request to inspect public records should be made in writing. The Act does not prohibit oral requests (and, in fact, expressly authorizes them), but if an oral request is made, the time constraints imposed on a public body for allowing inspection and the procedures discussed below for forwarding a request will not apply. In addition, a custodian who fails to respond to an oral request is not subject to any of the penalties imposed under the Act. Nevertheless, a records custodian cannot ignore an inspection request solely because it is oral. In all cases involving legitimate inspection requests, oral or otherwise, a records custodian should respond readily and provide the requested material in a timely 34

manner, unless the materials are clearly protected.

Example 47:

A citizen of a municipality goes to the city personnel office and asks the records custodian for a copy of a specific city employee's salary history. The salary history is public information. The records custodian is able to immediately access the information and provides it to the requester within 15 minutes of oral the request, thus satisfying the requirements of the Act.

Office of the Attorney General

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